

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

ISAAC ZOLOTAREV et al.

Serial No.: 10/710,282

Filed: June 30, 2004

For: MULTI-SPINDLE POSITIONING APPARATUS

Attorney Docket No.: 81101089 (FMC 1761 PUSP)

Group Art Unit: 3726

Examiner: John C. Hong

**RESPONSE TO RESTRICTION REQUIREMENT**

Mail Stop Amendment  
Commissioner for Patents  
U.S. Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is a response to the Restriction Requirement of April 17, 2008. Applicant elects with traverse to prosecute Group I comprising Claims 1-8 drawn to a spindle positioning apparatus.

Applicants believe that restriction is improper since Groups I and II cannot properly be considered distinct as combination and subcombination under MPEP § 806.05(c). For a combination and subcombination to be distinct it must be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability and (2) the subcombination must have utility by itself or in other combinations. In the present case, the first prong has not been satisfied. In the restriction requirement the Examiner stated that "the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not need the linear slot and the movable plate includes a pin that extends into the linear slot" (see page 4). Applicants note that neither Group I nor Group II requires a linear slot or a pin that extends into the linear slot. Indeed, independent claims 1 and 9 (i.e., the independent claims of Groups I and II, respectively) do not even mention a linear slot or a pin. As such, the requirement for restriction is not based on the claim language submitted by the Applicant and the first prong is not satisfied. Applicants respectfully request that the

requirement of restriction be withdrawn and claims 1-14 be reinstated for examination as was the case when the first Office Action was issued.

Prompt and favorable consideration of this application is requested. If the Examiner notes any minor errors, the Examiner is invited to telephone the undersigned so that the matter can be promptly handled by Examiner's amendment.

Respectfully submitted,

**ISAAC ZOLOTAREV et al.**

By: /Matthew M. Mietzel/

Matthew M. Mietzel

Reg. No. 46,929

Attorney for Applicant

Date: April 29, 2008

**BROOKS KUSHMAN P.C.**

1000 Town Center, 22<sup>nd</sup> Floor

Southfield, MI 48075-1238

Phone: (248) 358-4400

Fax: (248) 358-3351